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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,223	07/22/2003	Jeff Hodson	6065-88620	6950
24628	7590	11/18/2008		
Husch Blackwell Sanders, LLP			EXAMINER	
Husch Blackwell Sanders LLP Welsh & Katz			LU, CHARLES EDWARD	
120 S RIVERSIDE PLAZA				
22ND FLOOR			ART UNIT	
CHICAGO, IL 60606			PAPER NUMBER	
			2161	
			MAIL DATE	
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			11/18/2008	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10624223	7/22/2003	HODSON ET AL.	6065-88620

## EXAMINER

CHARLES E. LU

ART UNIT	PAPER
2161	20081114

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

Commissioner for Patents

This letter is to supplement the Examiner's Answer dated 10/29/2008.

In Section 6, the following is added:  
New Ground of Rejection

Claims 1-12 are rejected under 35 U.S.C. 101 for being directed to non-statutory subject matter.

As to claim 1, the claimed method is understood to be a method of purely mental steps, which is not statutory. A 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter to a different state or thing. Neither of these criteria is met. Specifically, the claim is not tied to any particular apparatus, and since the claim merely opens a file, measures activity, adds the measured activity to the file, and compiles a report based on the file, the claim does not transform underlying subject matter to a different state or thing. The claim should positively identify the other statutory class to which it is tied, or positively recite the subject matter that is being transformed. See *In re Bilski* and *In re Comiskey*. Claims 2-12 depend from claim 1 and are rejected based on the same reasons as claim 1.

Note that this is the same as seen in Sec. 9g of the examiner's answer.

In Section 8, the following is added:

Prior Art Used in Rejection:  
5,623,406 ICHBIAH 4-1997

/Apu M Mofiz/  
Supervisory Patent Examiner, Art Unit 2161

/Charles E Lu/  
Examiner, Art Unit 2161